

App. F. IX-4

Previous References.

19 49-50
(CB)

File No 263-69

Serial Nos. 12

Later References.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 2

Part B for Dec. 49

SUBJECT

Representation of Tanab T. Mohamed
Mun. 2. 2. 69. Held Dist & Sessions
Judge. for higher position.

oo 6270 / CB

D 16. 12. 49

to

acm Registrar

High Court of Mysore

2/2

Serial
No.

No 1066/48-49. dt 19-5-1949
from the Registrar High Court of
Mysore forwarding the
representation of Janab T. Md
Mustafa - Retd District and
Sessions judge praying for
enhancement of pension

1) Janab Md Mustafa
was promoted as District judge
acting on 10-10-1944. From 1945
action had not been taken to
fill up the vacancies in the
three grades of District judges.
In May 1948, High Court while
sending up proposals for promotion
and confirmations in the cadre of
District judges recommended the
following changes in the tenure
of ^{Janab} Mustafa's appointment as
District judge

III class P.P from 10-10-44

from III class P.P to

III class permanent } 3-2-46

III class permanent to

II class P.P } 3-2-46

II class P.P to

II class permanent } 3-2-46

2) Though there was
vacancy for his promotion as
District judge I grade, High Court
did not recommend him for
promotion as he was considered

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unfit even for promotion as
II class St judge. However High
Court recommended ^{as St judge II class} to his pro-
motion as he was on leave
preparatory to retirement and
High Court wanted to show
some concession to this officer
in view of his long service.

The question of
promotions and confirmation
was decided only in January
49 - It was ordered then
that all the vacancies in
the cadre of District Judges as
and when they arose be
located as having ~~an~~ arisen
only in III class and those
in I and II classes arose only
with effect from 1-1-49. As Janab
Mustafa had retired on 15-8-48
his promotion to I class did
not arise at all. He was
confirmed as District Judge
III class with effect from 15-2-46

Of what the High
Court wants is to give him
enhanced pension, it is for
orders whether High Court may
be requested to kindly state
give the following further
information.

(a) the pension that has

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been sanctioned to Janab Mustafa
(b) the pension he would have
been entitled to had he been
promoted as II class judge when
there was vacancy
(c) the pension that High
Court would recommend in this
case
(d) whether a concession shown
to this officer would not be a
precedent for other officers who
have retired under similar
circumstances.

CKD
9/8/49F
9.8.49

5) As ordered by A/Secy
the file relating to the council resolution
of 21-1-1949 to the effect that the
promotion to the cadre of 1st and
2nd grade district judges may be
given effect to with effect from
1-1-49 has been obtained from
Law Br and is linked herewith

CKD 6. There were vacancies in the
16/8/49 cadre of St. Judges in I and II
classes and Janab Md. Mustafa would
have got promotion to these classes. The
High Court also in their letter dated
3rd May 1948, stated that, though in
view of his unsatisfactory work, Janab
Md Mustafa does not deserve confirmation

Inquiry in Law Br
for collection relating
to council resolution
of 21-1-49 Kaster
sent as ordered

CKD
20/8

A

"H"

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or promotion, yet, in order to enable him, having regard to the long service put in by him, to earn pension to at a higher rate than what he would otherwise be entitled to, the High Court, as a measure of concession, have recommended the confirmation as also this promotion to the second grade. But it was finally decided that the ~~vacancies~~^{appointments} in the cadre of ~~St.~~ Judges be shown as permanent S.P.T or Ag. according to the vacancies that arose from time to time, the promotions being to the cadre of ~~St.~~ Judges in the third class only and to admit promotions to the first and second grade of ~~St.~~ Judges from 1.1.49. (vide S.O. No. dated 26.1.49).

"A" in the linked file

7) In view of the above decision Janab Md. Mustafa was promoted as ~~St.~~^{as} Judge, II class P.P. from 10.10.44 and ~~St.~~ Judge, III class permanent from 15.2.46. As he retired from service with effect from 15.5.48, the date of his superannuation, his promotion as ~~St.~~ Judge, ~~II class~~, I class did not arise.

8) The High Court says that the officer may be given such relief as Govt. deem fit and adequate under the rules. Information on the foregoing

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Point may be called for:-

- (1) The amount of pension that has been sanctioned to this officer
- (2) The amount of pension he would have got if he has been promoted as ^{II class} J. Judge in one of the ~~three~~ existing vacancies not were available.
- (3) Whether the concession shown to him would not be claimed by other officers who have retired under similar circumstances.

Law Secy)

20MR
 17-8-49

9) The above information may be called for.
 Please write to The Registrar, H.C. 1888

18/8/49
 20MR
 19-8-49

10) A dft. to the Registrar High Court calling for a report on the points raised in para 8 above is noted.

Law Secy)
 22/8

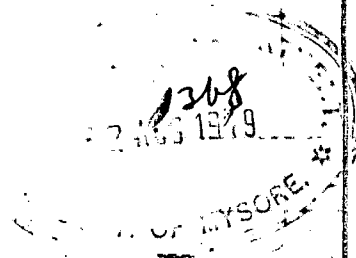
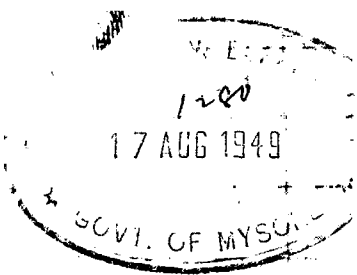
11) 20MR
 22/8/49

22/8/49

24/8/49
 20MR
 24/8/49

No. 1671/UB of 25-8-49 to the Registrar High Court - call for further information.

Ltr No. 106.6/48-49 of 17-9-49 from the Registrar, High Court of



Suo

Myself furnishing a report
in the matter.

(2) Subd with reference to
orders at para 8 and 9 of the
notes supra.

(3) The Registrar has reported
in para 3 of his letter that Sri
Kandamswami Pillai's ~~present~~ case
is similar to that of Janab
Mustafa and Sri Kanda-
swami Pillai has also made
a representation, asking for
higher pension - This file is linked
herewith. Janab Mustafa's request
for higher pension is for orders.

Cko

26/9

Resubd

95/11/429

(5) The request for enhanced
pension, if granted, requires financial
concurrence and would be Council matter.

For
15.11.49

(7) Janab S. Md. Mustafa has
been granted a pension of
Rs 400 p.m. admissible under
the rules. In case he had been
promoted as St. Judge II class
in one of the vacancies, he
would have got a pension
of Rs 450 p.m. Since promotions
in the cadre of St. Judges were
not given effect to though
they were admissible, Janab
Md Mustafa is one such officer

Representation of Janab Md. Mustafa

General and Revenue
Secretariat

File No.

[App. F. III-2

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C.W.D 06085-GIB-1,000-20-6-49

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No.

he cannot get the pension of Rs 450/-
if granted it will be out-side the
rules and the matter may have to
go before Council. Besides the grant
of this concession to Janab M. Mustafa
will result in extending this
concession to Sri V. Randaswami Pillai
whose case is ^{also} on all fours with that
of the former.

17 In the above circumstances it is
doubtful if an arbitrary pension
of Rs 450/- p.m. could be granted to
Janab Mustafa. Fin Dept may also
be consulted.

Law Secy)

DMR

18/11/49

For forwarding remarks

Fin Secy)
W.C.

1884
25/11/49
DMR
25/11/49

(19)

The proposal is financially inadmissible accord-
ing to Rule 1 Art 323. M.S.R.

Law Secy W.C.)

27.11.49.

Chief min)

The proposal has to be negated

Recd

9/12/49

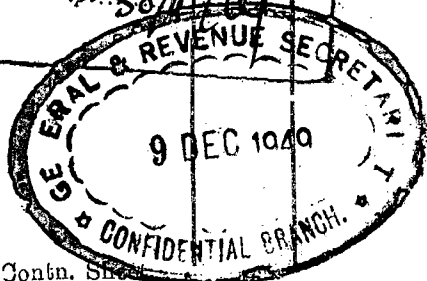
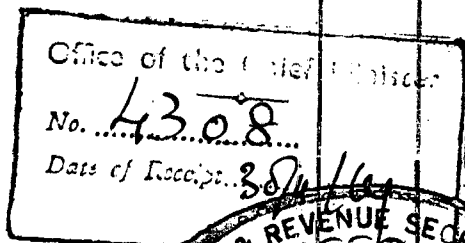
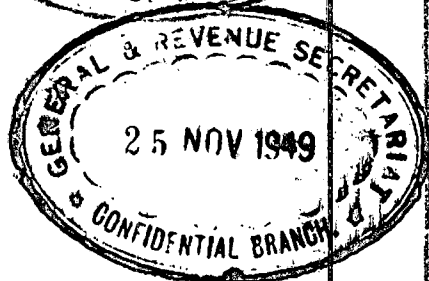
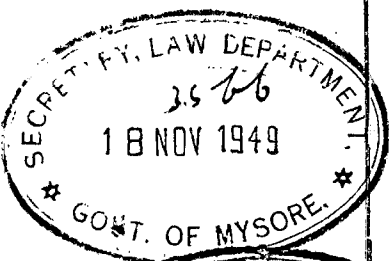
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9/12/49.

DMR
9.12.49

draft letter to the

P.T.O



Representation of Janat Md. Mustafa

File No.

1014 of 1949.
CS

General and Revenue
Secretariat

the Registrar, High Court of
Mysore is put up

CKD
14/12/49

Issue
sent
15/12/49

LD
14.12.49

106270 (CB) 16-12-49

to the Registrar High Court of
Mysore regarding the request

Serial
No.

B

The linked file
which was obtained from the Law P.M.
branch will be returned now.

CKD
21/12

yes
sent
22.12.49

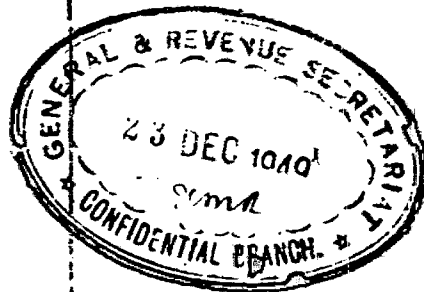
LD
21.12.49 Law P.M. for taking
back the linked file

CKD
22/12/49

The file ^(ct. 61-48) pertaining to the Law Branch
ct. 61-48 has been taken back.

This file may perhaps be returned
to the Confidential Branch

LD 23/12/49 CB
23/12



B

R. O. C. No. 1066/48
Dis. No. 49

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore.....19th May.....1949.

FROM

SRI J. RUDRAPPA, M.A., LL.B.,
Registrar, High Court of Mysore.

Sri B.S. Puttaswamy, B.A., B.L.,

Legal Remembrancer and Secretary to Government,
Law Department, BANGALORE.

SIR,

In forwarding herewith the representation received from Janab T. Mohamed Mustafa, Retired District and Sessions Judge, praying for enhancement of pension, I am directed to state that the officer would have been eligible to a higher pension if the permanent vacancies in the posts of the First and Second Grade District Judges had been filled up as and when those vacancies arose. The fact that the said posts were kept vacant for a number of years has not only deprived the officer of the extra pay which he would have drawn while in active service but has also affected adversely his pension. Under the circumstances, the petitioner's request may be considered sympathetically and he be given such relief as the Government deems fit and adequate under the rules.

Yours faithfully,

J. Rudrapa
REGISTRAR.

To

Rao Bahadur

Sri. P. Medapa,

Chief Justice, High Court of Mysore,

B A N G A L O R E.

Sir,

F. On 14-2-1949, certain confirmations and promotions of District Judges were ordered by the Government of H. H. The Maharaja of Mysore in No.6404/C.B.333-48-2. I feel that I must submit a memorial to show how adversely the order affects me, not only now but in future, with a view to obtaining a sympathetic consideration of the representation that I propose to make in this memorial.

Received on
16.5.1949
D.R.
16/5.

I have worked in the Judicial Department, till my retirement, to the best of my ability and capacity. After service of about 24 years, I was made a District and Sessions Judge on 10-10-44 and served in that capacity till my retirement on 15-5-48 except for a few months when I was given leave preparatory to retirement. During this period, no orders were issued in regard to the confirmation or promotions of any of the District Judges. It is on 14-2-49 that orders are issued and I find myself confirmed as a District Judge III Class from 15-2-46. That is all. The Cadre consists of one I Class District Judge, one II Class District Judge and the remaining judges are of the III Class. It is usual for the senior most Judge to be in Class I and the next one to him in class II; and when promotions are ordered, whether as soon as a vacancy arises or later, the senior man gets the grades almost automatically and the higher grades are almost invariably filled up. To my misfortune, that practice has not been adopted this time. On the date when I was confirmed, there were 2 Dist. Judges who were my seniors who were entitled to the higher grades. On 25-2-1946 when Sri. R. Venkataramayya was elevated to the High Court a vacancy in the second grade was available to be conferred on me, my only senior then, Sri. R. Puttaraja Urs, being entitled to

the first grade. When the lien of Sri. R. Puttaraja Urs in the Judicial Department was removed on 20-8-1947, Grade I also fell vacant and I was seniormost District Judge who, in the usual course, would have been placed in that grade.

It is thus seen that by the present order of 14-2-1949, I have not only suffered in emoluments to the extent of about Rs.8,000/- but also in status and, what is more, in the quantity of pension that I am to get a recurring loss which in these days of high prices is a hard blow when the income is reduced further than what it would be by retirement. Others below me have the satisfaction of being elevated to the High Court, though they may have suffered financially to some extent by the order.

I request you, Sir, to consider my case and forward it to the benign Government for a favourable and sympathetic consideration, if, in your opinion, I should have had the benefit of promotion when the higher grades fell vacant and nobody else was placed in those grades. There have been instances of people in the Department being promoted to the higher grades when they had been given long leave preparatory to retirement. I may cite the instance of Sri. H. M. Krishaswamy who was given both the second grade and the first grade when he was on long leave preparatory to retirement. In my case I was working as District Judge when the grades fell vacant and continued to do so for a few months when I went on leave for private reasons preparatory to retirement. If, for some reason, there was delay in making recommendations, or issuing orders, the people in the Department are not responsible and ought not to suffer.

Yours faithfully,

J. Mohamed Mustafa.

Bangalore,

Dated

SUBJECT.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

No. 1671/CB

To

The Registrar.

General and Revenue Secretariat

()

the

19

High Court of Mysore
Bangalore

Sir

Date of issue.....

With reference to your
letter No R.O.C NO 1066/48-49

Signed by.....

of 19-5-1949 forwarding for
~~your consideration~~ consideration the
representation of Janab T.
Md Mustafa, Retd. District
and Sessions Judge, I
am directed to request
you to ~~report on~~ furnish a
report on the following
points

List of enclosures.....

(1) The amount of
pension that has been
sanctioned to this officer

Copied by.....

(2) The amount of
pension he would have
got if he had been promoted
as District Judge II class in
one of the ~~vacancies~~ vacancies that
were available

Examined by.....

and (3) whether the concession shown to him would not be claimed by other officers who have ~~kind~~ under similar circumstances.

The reputation of Janab Md. Mustafa is enclosed herewith for ~~being~~ reference and return with your report.

Yours faithfully

~~1884~~

Lawley to Govt
CRD

sent
21/8/49

LD
22.8.49

25th August 9

Law
xxxx
1671/c B encl 1

The Registrar,
High Court of Mysore,
BANGALORE.

With reference to your letter No.R.O.C.1066/48-49 dated 19th May 1949 forwarding for consideration the representation of Janab T.Mohamed Mustafa, Retired District and Sessions Judge, I am directed to request you to furnish a report on the following points:

- 1) The amount of pension that has been sanctioned to this officer;
- 2) the amount of pension he would have got if he had been promoted as District Judge II Class in one of the vacancies that were available; and
- 3) whether the concession shown to him would not be claimed by other officers who have retired under similar circumstances.

The representation of Janab Mohamed Mustafa is enclosed herewith for reference and return with your report.

Yours faithfully,

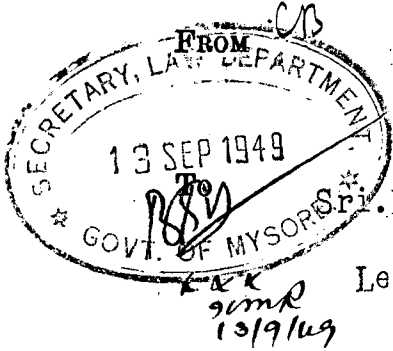
amr 27 Aug
Law Secretary to Government.
CKO

R. O. C. No 1066/48-49.
D. D.

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore...12th September...1949

13



SRI J. RUDRAPPA, M.A., LL.B.,
Registrar, High Court of Mysore.

Sri. B.S. Puttaswamy, B.A., B.L.;

Legal Remembrancer & Secretary to Government,
Law Department, B A N G A L O R E.

SIR,

2

With reference to your letter No.1671/C.B. dated 25.8.49, requesting to furnish a report on certain points referred to in the representation of Janab T. Mohamed Mustafa, retired District & Sessions Judge, I am directed to state as follows:-

1. The amount of pension sanctioned to Janab T. Mohamed Mustafa is Rs.400/- a month as per memo No.23558, dated 11.4.49, of the Comptroller.

2. If Janab T. Mohamed Mustafa had been promoted as District Judge, II class, in one of the vacancies that were available, he would have got a pension of Rs.450/- a month from the date of his retirement.

3. As regards the information whether the concession shown to him would not be claimed by other officers who have retired under similar circumstances, I am to state that the two other officers to be mentioned in this connection are Sri. H.V. Narayana Rao who retired from service with effect from 3.2.46 on a pension of Rs.125/- a month and Sri. V. Kandaswami Pillay who retired from 4.4.49 on a pension of Rs.416-11-0. As Sri. H.V. Narayana Rao was granted an ex-gratia pension of Rs.125/- a month, as his total service was less than 6 years

his case does not arise for consideration in this connection. But if Sri.V.Kandaswami Pillay is given the benefit of being promoted to the II class from 15.5.48, the date from which Janab Mohamed Mustafa retired from service, he will be eligible to get an enhanced pension of Rs.433-3-0 instead of Rs.413-11-0 which he is now getting.

Yours faithfully,

J. Rudappa
REGISTRAR.

CR/.
706

6270/KB

16th Dec. 9

Law
xxxx

The Registrar,
High Court of Mysore,
BANGALORE.

With reference to correspondence ending with your letter No.1066/48-49 dated 13th September 1949 recommending grant of higher pension to Janab T. Mohamed Mustafa, Retired District and Sessions Judge, I am directed to state that Government regret that the recommendation cannot be accepted.

Yours faithfully,

20/12/49
Law Secretary to Government.

CKS

To 6270/13 16/12/49

The Registrar -

High Court of Mysore

Bangalore -

Sir -

With reference
to correspondence ending
with your letter No $\frac{1066}{48-49}$
2713-9-1949 recommending
grant of highest
pension to Janat

T. Mohamed Mustafa,
+ sons
Retd. District Judge,

My I am directed
to state that Govt
accept that ^{the} your
recommendation

cannot be accepted.
~~The Highest is not acceptable to~~

them

yours faithfully

-JMR

15/12/49

P. Nawab Khan

(K)

14
14.12.49